

Exhibit 1

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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DEMETRIC DIAZ, OWEN DIAZ, and)
LAMAR PATTERSON,)
Plaintiffs,) CASE NO.
vs.) 3:17-CV-06748-WHO
TESLA, INC. dba TESLA MOTORS,)
INC.; CITISTAFF SOLUTIONS,)
INC.; WEST VALLEY STAFFING)
GROUP; CHARTWELL STAFFING)
SERVICES, INC.; and DOES 1-50,)
inclusive,)
Defendants.)
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DEPOSITION OF MICHAEL JOHN WHEELER

WEDNESDAY, JUNE 12, 2019

Reported by:

BY: MELINDA M. SELLERS, CSR# 10686, RMR, CRC, CRR, CCRR

MICHAEL JOHN WHEELER

June 12, 2019

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MICHAEL JOHN WHEELER
June 12, 2019

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10 ALSO PRESENT:
11 SAJA SPEARMAN, INTERN/VIDEOGRAPHER
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MICHAEL JOHN WHEELER

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1 then?

2 **A. Yes.**

3 Q. Okay. And the other African -- and the
4 other Hispanic worker who took the eight-hour lunch
5 break, that person also worked in recycling?

6 **A. Same section, yes.**

7 Q. Okay. So they were basically essentially
8 similarly situated?

9 **A. Yes.**

10 Q. In terms of what they did, right?

11 **A. Correct. They did the exact same thing.**

12 Q. In terms of their job functions?

13 **A. Yes.**

14 Q. Okay. But they were treated differently,
15 in terms of what happened to them after they made a
16 mistake, right?

17 **A. Correct.**

18 Q. Okay. Now, Owen Diaz also worked in your
19 area; is that right?

20 **A. Owen worked on elevator one.**

21 Q. Okay.

22 **A. And elevator two.**

23 Q. And were the -- I've seen some document
24 that has, like, recycling; and under recycling, the
25 elevator operators are also listed under that. Is

1 that -- tell me what that might mean, if you know.

2 A. I wouldn't say the operators were
3 recycling.

4 Q. Okay.

5 A. They literally stayed in the elevator all
6 day, taking Tesla products and recycling products
7 upstairs and downstairs --

8 Q. Okay.

9 A. -- but never did they need to move anything
10 other than off or onto the elevator. So they did
11 not break down boxes or sort or anything of that
12 caliber.

13 Q. Okay. Did you actually supervise Owen Diaz
14 in any way?

15 A. I was above Owen. I never needed to do
16 more than ask him, "Hey, can you bring something
17 down? Can you take this up?"

18 Q. Okay. So you had an ability to at least
19 direct Owen's work, but you didn't have
20 responsibility for his -- for -- direct supervision
21 of his work? Or tell me what your leadership was.

22 A. So I was technically Owen's superior.

23 Q. Okay.

24 A. And if I needed him to do something, that
25 would have been the chain of command.

1 **However, Owen was always on task. He never**
2 **needed to be told what to do.**

3 Q. So you had a chance to observe Owen's work
4 ethic; is that true?

5 **A. Absolutely.**

6 Q. And how would you characterize Owen's work
7 ethic?

8 **A. On time, worked overtime if needed. He was**
9 **always there. He was better than the other elevator**
10 **operators.**

11 Q. Okay. So your view was that Owen was
12 better than the other elevator operators?

13 **A. Absolutely.**

14 Q. Okay. When I say "better," meaning he
15 performed the job better?

16 **A. Correct.**

17 **And his demeanor was better, his attitude's**
18 **better. Just an all-around better character.**

19 Q. Okay. Tell me a bit more about the
20 relationship between recycling and Tesla. So you
21 mentioned something earlier about how the owner of
22 recycling -- what does that mean?

23 **A. So above Josue, for actual Tesla employees,**
24 **you had Jaime Soria.**

25 Q. Soria?

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1 **threatened to kill him?**
2 Q. Yeah.
3 **A. Is that the one?**
4 Q. Yeah.
5 **A. Okay.**
6 Q. You were aware of that --
7 **A. I was aware of that situation, yes.**
8 Q. You were also aware that Owen had
9 complained previously that Ramon Martinez had
10 threatened him, correct?
11 **A. I do not recall that.**
12 Q. Okay. Now, in addition to you, Owen also
13 had other supervisors; is that correct?
14 **A. It would have been Ramon.**
15 Q. Ramon Martinez?
16 **A. And Israel, the swing shift.**
17 Q. Okay.
18 **A. Because I want to say Owen worked from**
19 6:00 to 6:00.
20 Q. Yeah.
21 **A. So he fell on to two different shifts.**
22 Q. Okay. So because Owen worked 6:00 to 6:00,
23 he had multiple supervisors; is that correct?
24 **A. Correct.**
25 Q. And those supervisors included yourself; is

MICHAEL JOHN WHEELER

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1 STATE OF CALIFORNIA)

2) ss

3 COUNTY OF CALAVERAS)

4 I hereby certify that the witness in the
5 foregoing deposition of MICHAEL JOHN WHEELER was by
6 me duly sworn to testify to the truth, the whole
7 truth, and nothing but the truth in the
8 within-entitled cause; that said deposition was taken
9 at the time and place herein named; that the
10 deposition is a true record of the witness's
11 testimony as reported by me, a duly certified
12 shorthand reporter and a disinterested person, and
13 was thereafter transcribed into typewriting by
14 computer.

15 I further certify that I am not interested
16 in the outcome of the said action, nor connected
17 with, nor related to any of the parties in said
18 action, nor to their respective counsel.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand this 24th day of June, 2019.

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MELINDA M. SELLERS, CSR NO. 10686

STATE OF CALIFORNIA